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SECRETARY, BOARD OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES

STATE OF UTAH

IN THE MATTER OF THE REQUEST)
FOR AGENCY ACTION OF)
MARATHON OIL COMPANY FOR)
AN ORDER ESTABLISHING A 160—)
ACRE DRILLING UNIT FOR THE)
SE¼ OF SECTION 23, TOWNSHIP 15)
SOUTH, RANGE 9 EAST, S.L.M., FOR)
THE PRODUCTION OF GAS)
(INCLUDING COALBED METHANE)
GAS) FROM THE FERRON)
FORMATION WITHIN THE)
EXTERIOR BOUNDARIES OF THE)
DRUNKARD'S WASH)
UNIT IN CARBON COUNTY, UTAH)
)
)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

Docket No. 2000-003

Cause No. 243-4

This cause came on regularly for hearing before the Board of Oil, Gas and Mining (the **"Board"**) on Wednesday, March 22, 2000, at 11:00 a.m., in the Hearing Room of the Utah Department of Natural Resources at 1594 West North Temple Street, in Salt Lake City, Utah.

The following Board members present and participating in the hearing were: Thomas B. Faddies, Acting Chairman; Elise L. Erler; W. Allan Mashburn; Stephanie Cartwright; and James Peacock. John R. Baza, Associate Director for Oil and Gas of the Division of Oil, Gas and Mining (the **"Division"**) was present at and participated in the hearing. Four members of the

Board voted in favor the Request for Agency Action. Mr. Faddies, in his capacity as Acting Chairman, abstained from all voting except to break a tie vote.

Phillip Wm. Lear, of Snell & Wilmer L.L.P. appeared on behalf of Marathon Oil Company ("Marathon"), and Joseph C. Icenogle, Matthew Humphreys, and Terry K. Skinner appeared as witnesses for Marathon.

Thomas A. Mitchell, Assistant Attorney General, represented the Board and the Division. John R. Baza of the Division appeared to present the Staff Memorandum to the Board dated March 10, 2000, and the Division's recommendations.

Ron Carlson appeared for the Utah School and Institutional Trust Lands Administration. Robert Henricks, Chief, Branch of Fluid Minerals (Utah State Office) appeared for the United States Department of the Interior, Bureau of Land Management.

No parties other than the Division responded as provided by Rule 641-105-200 of the *Utah Administrative Code*, and no persons appeared at the hearing in protest of the proposed action.

NOW THEREFORE, the Board, having fully considered the testimony adduced and the exhibits received at the hearings, and being fully advised in the premises, makes and enters its Findings of Fact, Conclusions of Law, and Order in these matters, as follows:

FINDINGS OF FACT

1. The Board mailed notices of the hearing to interested parties on March 1, 2000, and caused notice to be published in the *Deseret News* and in the *Salt Lake Tribune* on March 5, 2000, and in the *Sun Advocate* on March 7, 2000. The *Sun Advocate* is a newspaper of general circulation in Carbon County, Utah.

2. Marathon mailed photocopies of the Request for Agency Action to the last known address of all owners having legally protected interests in the lands subject to the Request for Agency Action by certified mail, return receipt requested.

3. Marathon is an Ohio corporation in good standing, having its principal place of business in Houston, Texas. Marathon is licensed to do business in Utah.

4. Marathon owns or controls working interests in the lands which are the subject matter of this Request for Agency Action.

5. The lands affected by this Request for Agency Action are school trust lands of the State of Utah administered by the School and Institutional Trust Lands Administration ("SITLA").

6. The lands subject to the Request for Agency Action and proposed for spacing are situated in Carbon County, Utah, and are more particularly described, as follows:

Township 15 South, Range 9 East, S.L.M.

Section 23: SE¼

(containing 160.0 acres, more or less)

hereinafter "**Subject Lands.**"

7. The Subject Lands are part of the Drunkards Wash Field Area, a designated field known for the production of gas from the Ferron formation, including the Ferron Coals and sandstones.

8. The Subject Lands are governed by the general well-location and siting rules set forth in Rule R649-3-2 of the *Utah Administrative Code*, authorizing one well to be drilled for production in the center of every public land survey quarter-quarter section or equivalent lot with a tolerance of 200 feet in any direction from the center location.

9. The Subject Lands are situated within the exterior boundaries of the Drunkards Wash Unit, a federally supervised exploratory unit for the production of natural gas, including coalbed methane gas, from the Ferron formation, including the Ferron coals and sandstones. The Subject Lands are not committed to the Drunkards Wash Unit and constitute a window of uncommitted interests and acreage not governed by the plans of operation and development for the Drunkards Wash Unit.

10. The Subject Lands are believed to be underlain by a common source of supply from which natural gas, including coalbed methane gas, can be produced from the Ferron formation, including the Ferron Coals and sandstones.

11. The interval to be spaced comprises the Ferron formation, more particularly described as:

The stratigraphic equivalent of the interval from 3,070 feet to 3,320 feet as shown in the Bulk Density/Gamma Log of the Utah 32-82 Well located in Section 32, Township 15 South, Range 9 East, S.L.M.

(hereinafter "**Spaced Interval**"), an easily-identifiable stratigraphic horizon throughout the entire area.

12. Lands immediately adjacent to the Subject Lands support producing Ferron gas wells drilled on 160-acre patterns as part of the Drunkards Wash Unit.

13. Wells drilled in the Drunkards Wash Unit to the equivalent of the Spaced Interval are to be drilled no closer than 460 feet from the unit boundary line.

14. Geologic and engineering data obtained from drilling wells on lands surrounding the Subject Lands indicate that a drilling unit for the development of the Subject Lands and Spaced Interval should comprise the 160-acre public land survey quarter section constituting the

SE¼ of said Section 23. The well drilled to the Spaced Interval in the Subject Lands should be situated no closer than 460 feet from the quarter section boundary line.

15. One hundred sixty acres constitute an area no smaller than the maximum area drained by one well in the in the Spaced Interval in the Subject Land.

16. Developing the Spaced Interval in the Subject Lands as a 160-acre drilling unit will prevent waste, protect correlative rights, and promote the maximum ultimate recovery of oil and gas.

CONCLUSIONS OF LAW

17. The Board has jurisdiction of the parties and of the subject matter of this Request for Agency Action, pursuant to Chapter 6 of Title 40 of the *Utah Code Annotated*.

18. Marathon properly served all owners having a legally protected interest in the subject matter of this hearing.

19. The Division gave due and regular notice of the time, place, and purpose of the hearing to all interested parties as required by law and by the rules and regulations of the Board.

20. Marathon has a legally protected interest in the gas in the Subject Lands and in the Subject Interval to be spaced and is entitled to bring this Request for Agency Action.

21. Marathon's Request for Agency Action poses an appropriate request for establishment of a drilling unit for the Spaced Interval in the Subject Lands.

22. The right to conduct drilling operations on the Subject Lands is governed by the general well-location and siting rules set forth in Rule R649-3-2 of the *Utah Administrative Code*, authorizing one well to be drilled for production in the center every public land survey

quarter-quarter section or equivalent lot with a tolerance of 200 feet in any direction from the center location.

23. One hundred sixty acres constitute an area no smaller than the maximum area drained by one well in the in the Spaced Interval in the Subject Lands.

24. An order establishing the SE $\frac{1}{4}$ of said Section 23 will promote the public interest, increase ultimate recovery, prevent waste, and protect correlative rights of all owners.

ORDER

IT IS THEREFORE ORDERED that in order to promote the public interest, to increase the maximum ultimate recovery of the resource, to prevent physical waste of gas and associated hydrocarbons, and to protect the correlative rights of all owners:

- A. Marathon's Request for Agency Action in Cause No. 243-004 is hereby granted.
- B. A drilling unit comprising the SE $\frac{1}{4}$ of Section 23 in Township 15 South, Range 9 East, S.L.M. is hereby established for the production of gas from the Ferron formation, including the Ferron Coals and surrounding sandstones.
- C. One well shall be authorized to be drilled for the production of gas from the Spaced Interval. The permitted wells shall be located no closer than 460 feet from the exterior boundary of the drilling unit.
- D. Administrative approval may be granted for adjustments to the drilling location for topographic, geologic, environmental, or archeological reasons.
- E. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code Ann. §§ 63-46b-6 through -10

(1993), and of the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641 (1998).

F. These Findings of Fact, Conclusions of Law, and Order ("**Order**") are based exclusively upon evidence of record in these proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63-46b-10 (1993), and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641-109 (1998); and constitutes final agency actions as defined in the Utah Administrative Procedures Act and Board rules.

G. Upon Marathon's motion, default judgment is hereby entered against any and all persons having legally protected or direct interests who were served with photocopies of the Request for Agency Action or otherwise received notice of the hearing, but failed to attend or participate in the hearing pursuant to section 63-46b-11 of the *Utah Code Annotated* and Rule R641-114-100 of the *Utah Administrative Code*.

H. **Notice of Right of Judicial Review by the Supreme Court of the State of Utah.** The Board hereby notifies all parties to this proceeding (who filed formal responses or protests or appeared at the proceeding) that they have the right to seek judicial review of this Order by filing an appeal with the Supreme Court of the State of Utah within 30 days after the date this Order is entered. Utah Code Ann. § 63-46b-10(f) (1993).

I. **Notice of Right to Petition for Reconsideration.** As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding (who filed formal responses or protests or appeared at the proceeding) that they may apply for

reconsideration of this Order. Utah Code Ann. § 63-46b-10(e) (1993). The Utah Administrative Procedures Act provides:

(1) (a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Utah Code Ann. § 63-46b-13 (1993).

J. The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled "Rehearing and Modification of Existing Orders" state:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month.

Utah Admin. Code R641-110-100 (1998).

K. The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any

K. party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within 30 days thereafter.

L. The Board retains exclusive and continuing jurisdiction of all matters covered by this Order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

M. The Chairman's (or acting chairman's) signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

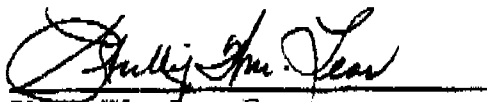
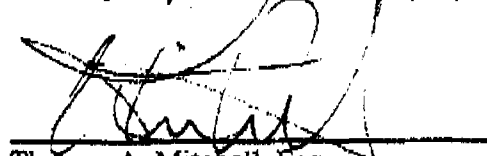
Issued this 19 ^{April} day of ~~March~~, 2000.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING



Thomas B. Faddies
Acting Chairman

Approved as to Form:


Phillip Wm. Lear, Esq
Attorney for Marathon Oil Company
Thomas A. Mitchell, Esq.
Assistant Attorney General
Attorney for the Board

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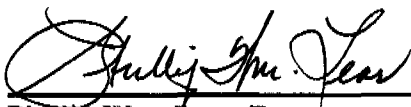
M. The Chairman's (or acting chairman's) signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

Issued this ____ day of March, 2000.

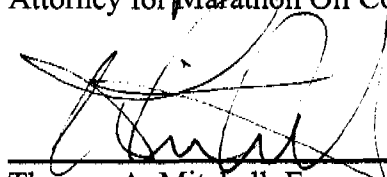
STATE OF UTAH
BOARD OF OIL, GAS AND MINING

Thomas B. Faddies
Acting Chairman

Approved as to Form:



Phillip Wm. Lear, Esq
Attorney for Marathon Oil Company



Thomas A. Mitchell, Esq.
Assistant Attorney General
Attorney for the Board

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER for Docket No. 2000-003, Cause No. 243-4 to be mailed with postage prepaid, this 20 day of April, 2000, to the following:

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